

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : BAKER et al.
Serial No. : 10/817,058
Filing Date : April 2, 2004
For : Method of Treating Cardiac Ischemia by Using Erythropoietin
Group Art Unit: 1653
Examiner : MAYER, Suzanne Marie
Confirmation No.: 2664

PETITION UNDER 37 CFR §1.47

Sir:

I, John E. Baker, being an inventor in the above-identified patent application, and sole member and owner of Poietis LLC, the owner of 100% interest in the above-identified patent application, declare and say as follows:

Statement of Facts.

1. On or about August 19, 2005, Dr. Yang Shi, the named co-inventor in the above-identified patent application, executed a Transfer and Release of Intellectual Property (**Exhibit 1** – redacted copy) and an Assignment (**Exhibit 2**) to transfer her rights and interest and to be released of all obligations in connection with Provisional Application No. 60/460,684 and USSN 10/817,058.
2. An Assignment executed on August 19, 2005 by Dr. Shi to Poietis, LLC, was recorded in the U.S. Patent and Trademark Office on August 19, 2005 (Reel/Frame 016424/0162).
3. An Assignment executed on August 25, 2005 by me, Dr. John E. Baker, to Poietis, LLC, was recorded in the U.S. Patent and Trademark Office on August 29, 2005 (Reel/Frame 016465/0110).
4. I, Dr. John Baker, am the sole member and owner of Poietis, LLC (Wauwatosa, WI), owner of 100% interest in the above-identified patent application by virtue of the above-referenced Assignments.

5. On June 15, 2006, I met with Dr. Shi (aka Yang "Scarlet" Shi) at the Medical College of Wisconsin, and personally presented her with a Declaration under 37 CFR §1.131 (submitted herewith) for her review and execution. Dr. Shi informed me both orally (voicemail and in person) and in writing that she refused to sign this Declaration. The written message from Dr. Shi (signed "Scarlet"), dated June 15, 2006, is attached as **Exhibit 3**.
6. The last known address of Dr. Yang Shi, the named co-inventor, is 2116 North 115th Street, Wauwatosa, WI 53226.
7. I further hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date:

June 16, 2006

By:

John E. Baker

John E. Baker, Ph.D.

TRANSFER AND RELEASE OF INTELLECTUAL PROPERTY

(Redacted)

This Intellectual Property Transfer and Release ("Transfer/Release") is entered into by and between Yang Shi, Ph.D., an individual having a residence at 2116 N. 115th Street, Wauwatosa, WI 53226 ("Dr. Shi"), and John E. Baker, Ph.D., an individual having a residence at 2131 N. 72nd Street, Wauwatosa, WI 53213 ("Dr. Baker");

WHEREAS, Dr. Shi and Dr. Baker have developed certain ideas, inventions, and developments related to methods and products for use in treating myocardial ischemia utilizing erythropoietin, which are described in a United States provisional application serial number 60/460,684, filed in the U.S. Patent and Trademark Office on April 4, 2003, and entitled "Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin," and in a United States patent application serial number 10/817,058, filed in the U.S. Patent and Trademark Office on April 2, 2004, and entitled "Method of Treating Cardiac Ischemia by Using Erythropoietin" ("the Patent Application");

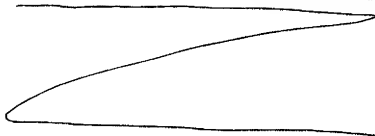
WHEREAS, Dr. Shi wishes to transfer all of her rights in the Patent Application to Dr. Baker, and to be released of any and all obligations in connection with the Patent Application;

WHEREAS, Dr. Shi represents that she has the legal right to transfer such rights to Dr. Baker, and has not entered into any agreement with any other third party granting any rights to the Patent Application.

GRANT OF TRANSFER/RELEASE

Dr. Shi, and her successors and assigns, for and in consideration of the following:

1)



- 2) A full and complete release from any and all financial obligations to Dr. Baker and/or Poietis LLC in connection with the Patent Application, including legal fees;
- 3) A full and complete release from any and all legal liability in connection with the Patent Application, and Dr. Baker and Poietis, LLC agree to fully indemnify and hold Dr. Shi, her heirs and assigns harmless from any and all liabilities arising out of the patent application process;

Transfer and RELEASE of INTELLECTUAL PROPERTY

4)

[Handwritten signature]

and for other good and valuable consideration receipt of which is hereby acknowledged, Dr. Shi hereby transfers to Dr. Baker, his successors, assigns, and agents, the Patent Application pursuant to an Assignment executed on even date herewith, and quits any claims thereto in the United States, and agrees to execute a Declaration(s) and/or other documents as may be required to obtain protection for the inventions disclosed in the Patent Application in the United States.

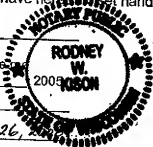
Nothing contained herein shall be construed as to prevent Dr. Shi from pursuing research and funding for the use of erythropoietin, or compelling her in any manner to provide research, information or knowledge regarding her use of erythropoietin.

Each party has read and fully understands this Transfer/Release. This Transfer/Release and the Assignment executed on even date herewith represent the entire agreement of the parties with respect to the subject matter described herein.

Dr. Shi further understands and agrees that this Release is irrevocable and may not be changed or rescinded except in writing signed by both of the parties.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 19th day of August, 2005.

Date: 8/19/2005



Yang Shi

Subscribed and sworn to before me
this 19th day of August, 2005.

Patricia Raye Rickun
Notary Public, State of Wisconsin

My commission expires: Oct. 26, 2006

Date: 8/19/2005



Subscribed and sworn to before me
this 19th day of August, 2005.

Patricia Raye Rickun
Notary Public, State of Wisconsin
My commission expires: 11-16-06

ASSIGNMENT

In consideration of good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, Yang Shi, having a residence at 2116 North 115th Street, Wauwatosa, WI 53226 ("ASSIGNOR") by these presents does hereby assign and transfer to Poietis, LLC, 2131 North 72nd Street, Wauwatosa, WI 53213 ("ASSIGNEE") and the successors, assigns, and legal representatives of the ASSIGNEE, the entire right, title and interest in and to the inventions disclosed in United States provisional application serial no. 60/460,684 (filed April 4, 2003) entitled Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin, and United States patent application serial no. 10/817,058 (filed April 2, 2004) entitled Method of Treating Cardiac Ischemia by Using Erythropoietin, and in and to said applications and all Letters patent in the United States to be obtained for said inventions by said applications, and any division, continuation, reissue, renewal, or reexamination of the applications or Letters patent thereof in the United States, and hereby authorizes the U.S. Commissioner of Patents and Trademarks to issue such U.S. Letters Patent to ASSIGNEE for the sole use of ASSIGNEE, its successors or assigns. This is an assignment of the invention disclosed in United States provisional application serial no. 60/460,684 (filed April 4th, 2003) and United States patent application serial no. 10/817,058 (filed April 2, 2004) only and does not extend to or prevent Dr. Shi from continued and future research involving Erythropoietin.

ASSIGNOR further agrees to execute, at the request and expense of ASSIGNEE such other formal documents as may be required to fully convey the interest transferred herein and will similarly execute any application papers required for the filing of any division, continuation, renewal, reexamination, or reissue of the patent application or resulting Letters Patent.

To be binding on the heirs, assigns, representatives, and successors of the undersigned, and extend to the successors, assigns, and nominees of the ASSIGNEE.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 19th day of August, 2005.

Date: 8/19/2005

Yang Shi

Subscribed and sworn to before me
this 19th day of August, 2005.

Robert J. D'Amico
Notary Public, State of Wisconsin

My commission expires: October 26, 2008

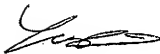


Jun 15, 2006

Dear John,

I have received the papers and find that I can't sign them as you requested.

As you remember, I already signed the document for the EPO declaration, which represents my best knowledge of it. This is the extent of my involvement in this. Please do not contact me regarding this subject again.



Scarlet

6-15-06

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: BAKER et al.

Application No./Patent No./Control No.: 10/617,058 Filed/Issue Date: April 2, 2004

Entitled: Method of Treating Cardiac Ischemia by Using Erythropoietin

Poietis, LLC

(Name of Assignee)

a Limited Liability Company

(Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____ %)

In the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 016424, Frame 0162, or a true copy of the original assignment is attached. and Reel 016465, Frame 0140

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

John E. Baker

* Signature

John E. Baker

Printed or Typed Name

Member/Owner

Title

June 16, 2006

* Date

44-257-3321

* Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22315-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



DW # 2A-3274811
UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
 ASSISTANT SECRETARY AND COMMISSIONER
 OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

AUGUST 19, 2005

PTAS

500045984A

500045984A

JERE L. HOUK
 WHYTE HIRSCHBOECK DUDEK S.C.
 555 E. WELLS STREET, SUITE 1900
 MILWAUKEE, WI 53202

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 08/19/2005

REEL/FRAME: 016424/0162
 NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

SHI, YANG

DOC DATE: 08/19/2005

ASSIGNEE:

POIETIS, LLC
 2131 NORTH 72ND STREET
 WAUWATOSA, WISCONSIN 53213

SERIAL NUMBER: 10817058

FILING DATE: 04/02/2004

PATENT NUMBER:

ISSUE DATE:

TITLE: METHOD OF TREATING CARDIAC ISCHEMIA BY USING ERYTHROPOIETIN

ASSIGNMENT DIVISION
 OFFICE OF PUBLIC RECORDS

ASSIGNMENT

In consideration of good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, Yang Shi, having a residence at 2116 North 115th Street, Wauwatosa, WI 53226 ("ASSIGNOR") by these presents does hereby assign and transfer to Poietis, LLC, 2131 North 72nd Street, Wauwatosa, WI 53213 ("ASSIGNEE") and the successors, assigns, and legal representatives of the ASSIGNEE, the entire right, title and interest in and to the inventions disclosed in United States provisional application serial no. 60/460,684 (filed April 4, 2003) entitled Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin, and United States patent application serial no. 10/817,058 (filed April 2, 2004) entitled Method of Treating Cardiac Ischemia by Using Erythropoietin, and in and to said applications and all Letters patent in the United States to be obtained for said inventions by said applications, and any division, continuation, reissue, renewal, or reexamination of the applications or Letters patent thereof in the United States, and hereby authorizes the U.S. Commissioner of Patents and Trademarks to issue such U.S. Letters Patent to ASSIGNEE for the sole use of ASSIGNEE, its successors or assigns. This is an assignment of the invention disclosed in United States provisional application serial no. 60/460,684 (filed April 4th, 2003) and United States patent application serial no. 10/817,058 (filed April 2, 2004) only and does not extend to or prevent Dr. Shi from continued and future research involving Erythropoietin.

ASSIGNOR further agrees to execute, at the request and expense of ASSIGNEE such other formal documents as may be required to fully convey the interest transferred herein and will similarly execute any application papers required for the filing of any division, continuation, renewal, reexamination, or reissue of the patent application or resulting Letters Patent.

To be binding on the heirs, assigns, representatives, and successors of the undersigned, and extend to the successors, assigns, and nominees of the ASSIGNEE.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 19th day of August, 2005.

Date: 8/19/2005

Yang Shi

Subscribed and sworn to before me
this 19th day of August, 2005.

Anthony J. Davis
Notary Public, State of Wisconsin
My commission expires: October 26, 2008





UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

AUGUST 29, 2005

PTAS

500047399A

500047399A

JERE L. HOUK
WHYTE HIRSCHBOECK DUDEK S.C.
555 E. WELLS STREET, SUITE 1900
MILWAUKEE, WI 53202

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 08/29/2005

REEL/FRAME: 016465/0110
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
BAKER, JOHN E.

DOC DATE: 08/25/2005

ASSIGNEE:
POIETIS, LLC
2131 NORTH 72ND STREET
WAUWATOSA, WISCONSIN 53213

SERIAL NUMBER: 10817058

FILING DATE: 04/02/2004

PATENT NUMBER:

ISSUE DATE:

TITLE: METHOD OF TREATING CARDIAC ISCHEMIA BY USING ERYTHROPOIETIN

ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

ASSIGNMENT

In consideration of good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, John E. Baker, having a residence at 2131 North 72nd Street, Wauwatosa, WI 53213 ("ASSIGNOR") by these presents does hereby assign and transfer to Poietis, LLC, having a business address at 2131 North 72nd Street, Wauwatosa, WI 53213 ("ASSIGNEE") and the successors, assigns, and legal representatives of the ASSIGNEE, the entire right, title and interest in and to the inventions disclosed in United States provisional application serial no. 60/460,684 (filed April 4, 2003) entitled Method of Preventing Cardiac Ischemia by Treatment with Erythropoietin, and United States patent application serial no. 10/817,058 (filed April 2, 2004) entitled Method of Treating Cardiac Ischemia by Using Erythropoietin, and in and to said applications and all Letters patent in the United States to be obtained for said inventions by said applications, and any division, continuation, reissue, renewal, or reexamination of the applications or Letters patent thereof in the United States, and hereby authorizes the U.S. Commissioner of Patents and Trademarks to issue such U.S. Letters Patent to ASSIGNEE for the sole use of ASSIGNEE, its successors or assigns.

ASSIGNOR further agrees to execute, at the request and expense of ASSIGNEE such other formal documents as may be required to fully convey the interest transferred herein and will similarly execute any application papers required for the filing of any division, continuation, renewal, reexamination, or reissue of the patent application or resulting Letters Patent.

To be binding on the heirs, assigns, representatives, and successors of the undersigned, and extend to the successors, assigns, and nominees of the ASSIGNEE.

IN WITNESS WHEREOF, I have hereunto set hand and seal this 25th day of August, 2005.

Date: 8/25/2005

John E. Baker
John E. Baker

Subscribed and sworn to before me
this 25 day of August, 2005.

Mary E. Gryniewicz
Notary Public, State of Wisconsin
My commission expires: 5/11/08